IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3025 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MIKI FOOD PRODUCTS

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 3025 of 2003
MR PARESH M DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1 to 4

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE K.M.MEHTA

Date of decision: 28/04/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

Rule. Mr. D.N. Patel waives service of rule for the respondents.

There is no dispute about the fact that the petitioners have filed an appeal before the Commissioner (Appeals), Ahmedabad, under Section 35 of the Central Excise Act, 1944 and applications are also made for stay of the two Orders-in-original. No order is made on the applications for interim relief. However, letters are issued for initiating coercive proceedings against the petitioners. In matters of this nature, this Court has passed orders earlier in Special Civil Application No. 10591/01 and 10622/01 on 7.11.01 and in Special Civil Application No. 972/03 on 29.3.03, giving direction that the coercive proceedings should not be undertaken until the applications for interim stay are decided in accordance with law. The appellate authority will, therefore, take up the applications for stay that may have been filed by the petitioners for hearing and make appropriate orders thereon expeditiously. It is understood that until then, no coercive recovery will be effected. The petition stands disposed of accordingly. Rule is made absolute with no order as to costs. Direct service is permitted for respondent nos. 2 and 3.

[R.K. ABICHANDANI, J.]

[K.M. MEHTA, J.]

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